IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.4649 of 2006

Shri Kanhaiyalal Motilal Talera — Petitioner
Vs.
Smt.Sarubai Narayan Mulik & anr. — Respondents

Mr.Madhav Jamdar for petitioner.
Mr.S.M.Gorwadkar for resp.no.1.

CORAM: B.H.MARLAPALLE,J.

July 24, 2006.

P.C.

. Heard Mr.Jamdar, the learned counsel for the petitioner-plaintiff in Special Suit No.1792 of 1994.

. During the pendency of the Suit an application under Order XXXIX Rule 2A of CPC came to be filed before the trial Court alleging that the temporary injunction granted by the trial Court was violated. Defendant no.1 filed a reply and denied the said allegation.

. After hearing both the parties and on perusal of the application as well as the reply filed thereto the trial Court has noted that there was no prima facie case to hold that the defendant no.1 had created third party interests. It was noted that the defendant no.1 was about 100 years old and she was

not in a position to enter into any transaction in respect of the suit land after 24/1/1995. The trial Court also noted the defendant no.1's statement that the agreements with six builders were terminated by her on 20/7/1995. It appears that there was no prima facie evidence before the trial Court about the alleged breach of the temporary injunction order passed against the defendant no.1 and, therefore, the impugned order does not call for any interference in this petition filed under Article 227 of the Constitution.

. The petition is summarily rejected. The Suit shall be heard and decided as per the directions given by this Court earlier.

(B.H.MARLAPALLE,J.)